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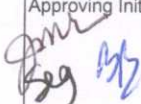
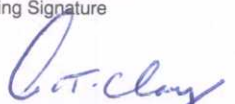
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INTRODUCTION

"Disclosure" is a term used to describe the release of information by Michigan Department of Treasury to taxpayers, the general public, and federal and local agencies in accordance with the Revenue Act (Act 122 of the Public Acts of 1941, as amended). "Confidential information" includes both return information, information or parameters regarding audit selection, processing or collection criteria, or other facts or information obtained in connection with the administration of a tax.

The Revenue Act states conditions under which disclosure of confidential information is authorized. This Bulletin gives details and examples of the types of situations where disclosure is or is not authorized. The Revenue Act makes it a felony for violation of its confidentiality provisions, and provides for a fine of not more than \$5,000.00 or imprisonment for not more than five years, or both, together with the costs of prosecution in addition to dismissal from employment. These provisions are detailed in Policy ET-03016 (pages 5/12 - 5/13.3 in Employee Handbook).

Information obtained from the Internal Revenue Service (IRS) may not be disclosed under provisions of the Revenue Act.

Persons having access to tax documents, whether state or federal, are cautioned not to divulge any facts or information obtained in connection with the administration of a tax.

Individuals shall not request and/or obtain a tax return, tax document or information available in computer tax files unless it is obtained for the performance of official duties and in accordance with established procedures.

GENERAL RULES FOR DISCLOSURES

Returns and return information are confidential and may not be disclosed except when authorized by the Revenue Act. This rule applies to all present and former Michigan Department of Treasury employees.

To know how this rule affects the performance of your job, terms such as confidential tax information, disclosure, return, return information, and information obtained in the administration of a tax must be defined. The term "confidential tax information," as used in this Bulletin, refers to returns, return information and information obtained in the administration of a tax.

"Disclosure" is the act of making tax information known to any person in any manner.

A "return" is any tax return, information return, schedules or attachments to a return, or schedule filed with the State. A return also includes any amendments or supplements to the return filed by or for a taxpayer.

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"Return information" includes any information contained on a tax return and supporting schedules, attachments or lists. Returns include information returns, declarations of estimated tax, claims for refund, and any related amendments. Information is "return information" if it relates to the liability or potential liability of a taxpayer for any tax, penalty, interest, fine, forfeiture, etc. A taxpayer's request for return information need not be in writing. You may give limited return information over the telephone after verifying the caller's right to receive it.

"Information obtained in the administration of a tax" includes "returns," "return information," and any information other than the taxpayer's return which the State has obtained from any source or developed through any means concerning a person's tax matters. For example, information obtained during an investigation is return information. Administration information also includes audit selection criteria, processing procedures, and collection procedures and criteria.

The Disclosure Officer in the Hearings, Tax Research and Disclosure Division should be contacted for any questions regarding disclosure and security operating procedures or as indicated in this Bulletin.

DISCLOSURES TO AUTHORIZED PERSONS

The primary consideration in handling a request for tax information is whether the person requesting the information is entitled ("authorized") to receive it. It also must be verified that the person who is making the inquiry or request for information is, in fact, that authorized person.

Taxpayers are entitled to receive information about their own account or return. The taxpayer may be a spouse on a joint return, a partner in a partnership, or officer of a corporation depending on the type of tax account. Other persons may also be designated by the taxpayer as "authorized" to receive information.

Depending on the method of request or contact, different methods can be used to verify requester identity. Personnel handling taxpayer inquiries or correspondence should be reasonably satisfied that the requester is who he or she claims to be. Questions concerning proper identification of persons requesting return information should be referred to supervisory personnel.

DETERMINING IDENTITY

Requests by Telephone

In responding to telephone requests from taxpayers, no return information may be given out unless it relates to a notice, billing, or letter initiated by the Department, or refund inquiry. The following data must be obtained from the caller before information can be disclosed:

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1. The taxpayer's name as it appears on the tax return or collection ledger
2. The taxpayer's address of record
3. The taxpayer's identification number (SSN or FE#)
4. In the case of a refund inquiry:
 - A. The approximate amount of expected refund unless computed by the Department (1040EZ), and
 - B. The manner in which the return was filed (i.e., individual separate return, joint return).

If the caller is unable to furnish required information, request the caller to obtain the necessary information and call back. Verify all information you receive to Registration, STAR or Michigan Automated Collection System (MACS) records. If you have any doubt as to the identity of the caller or their right to obtain the information, advise him or her that we will send the requested information by mail to the taxpayer's name and address of record.

Requests in Person

Taxpayers requesting returns or return information in person should provide the same data as listed above. Also, sufficient evidence that the person is, in fact, the taxpayer or other authorized person should be provided.

Requests in Writing

It is preferred that requests for returns or return information be in writing, either to the Disclosure Officer or the appropriate taxing division. Requests should include:

1. Name, address and identification number (SSN or FE#) of taxpayer,
2. Description of the information requested, including tax type and taxable period, and
3. Sufficient evidence to establish that the requester is entitled to receive the information.

Identification is not required for written requests. However, if there are doubts about a person's identity, employees should request additional identity information or offer to send the requested information by mail to the taxpayer's name and address of record.

DETERMINING AUTHORITY TO RECEIVE INFORMATIONJoint Returns

Joint account information is available to either taxpayer, regardless of whether the spouse requesting the information signed the return or consented to the joint filing.

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Spouses are not entitled to information if they are not named on the returns/assessments. (This also includes corporate officer, successor or general partner obligations.) Therefore, care must be exercised to guard against divulging confidential information to non-affected spouses or limited partners. Further, current address, employment and/or collection information regarding one joint filer may not be divulged to another joint filer where the joint filers are separated or divorced. Where no joint return was filed and a spouse has been claimed as an exemption on the return, that spouse may not be given information without written authorization from the taxpayer.

Partnerships

Partnership return information may be disclosed to any person who was a partner during any period covered by the return. New partners cannot have access to information for periods in which they were not a partner. Likewise, previous partners are entitled to information only for periods during which they were a partner. Partners are not entitled to current address, employment and/or collection information regarding other partners.

Corporations

Corporate return information may be disclosed to the following:

1. Any officer of the corporation
2. The signer of the return if he or she continues to act on behalf of the corporation in the same capacity (with the same authority) in which he or she signed the return.
3. Any person designated by resolution of the corporate board of directors or other similar governing body.
4. Any employee of the corporation upon submitting a written request which is signed by an officer and attested to by any other officer.
5. If corporation was an electing small business corporation under subchapter S, any person who was a shareholder during any part of the period covered by such return during which an election was in effect.

If a corporation has filed a consolidated return which includes the return of a subsidiary, the entire return and return information is the return or return information of the subsidiary. Whether or not consolidated returns have been filed, persons authorized to act for the parent corporation may request and receive returns and return information of the subsidiary.

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Example: You call Baker's Delight, Inc. regarding a balance due case. The receptionist, Ms. Ash, says that all of the officers are out of the country for a meeting. Ms. Ash owns one share of stock and wants to know the reason for the call since she is a stockholder. Since Ms. Ash is not an officer or signer of returns, you may not disclose confidential tax information.

Local Governmental Units

Requests for returns must be made in writing on appropriate government letter-head and addressed to Treasury's Disclosure Officer, Hearings, Tax Research and Disclosure Division.

Trusts*

The trustee or trustees, jointly or separately, may receive returns and return information of a trust. Beneficiaries of the trust may receive returns and return information of the trust only if the beneficiary shows a material interest which will be affected by them.

Decedents*

Information may be disclosed to the executor, administrator, or trustee of the estate provided written evidence such as a copy of the will or letters testamentary are furnished.

Incompetent Persons*

Disclosure may be made to the court appointed committee, trustee, or guardian of an incompetent person's estate provided copies of the appropriate documents establishing the rights and authorities are furnished.

"Incompetent" persons are minors, the insane, senile, totally disabled, etc., according to state or federal law.

Relatives

Relatives (except spouses on joint returns) are third parties and the rules described below under "Representatives or Designees" apply.

Representatives or Designees

Any person who qualifies to receive confidential tax information may authorize a third party to receive the data on his or her behalf. See Policy ET-23021 regarding third party representative requirements.

*Because a determination must be made regarding whether proper court authorization has been provided or a beneficiary has a material interest, the request should be routed to the Disclosure Officer.

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Confidential tax information may be disclosed to persons designated by the taxpayer in a written request for or consent to disclosure. The designation of authority must be in writing, even if the third party has a copy of a bill or notice regarding the taxpayer's account. In the absence of a written request or authorization, only general information relative to the meaning of the bill or notice may be provided.

Exceptions to this requirement for written authorization occurs when disclosure is made with the express or implied consent of the taxpayer in the taxpayer's presence. For example, if a taxpayer brings a friend with him or her and invites the friend to sit in, consent to disclosure of his or her tax information is implied.

"Person" is defined as an individual, a trust estate, partnership, association, company or corporation. Thus, requests for disclosure to organizations (including agencies) are acceptable. Moreover, it is not necessary that a particular office or person within the organization be specified to receive the information.

Department of Treasury form C-1029 POWER OF ATTORNEY/AUTHORIZATION may be used for the purpose of designating authority to receive confidential information. Also, a copy of the IRS power of attorney for the period(s) in question is acceptable. If an authorization has been received, the following information appears on STAR's OTHADD and COMENT screens and on MACS screen:

1. The third party's name with Power of Attorney (POA) code "P01" for unlimited authorization or "P02" for limited authorization
2. The third party's address and telephone number
3. The extent of authorization (disclosure of information; specific tax return periods versus blanket power for any period; power to enter in repayment agreements, etc.).

Example 1: A taxpayer's accountant calls to discuss a client's 1992 individual tax liability. The COMENT screen indicates an authorization for 1991 but not 1992. The accountant claims that is a typographical error and that 1992 was intended. Even if the taxpayer orally verifies that the authorization is for 1992, you must secure written authorization before making the requested disclosure.

Example 2: Mrs. Farmer calls stating that her cousin Mr. Apple received a bill for estimated tax penalty and asked her to find out what it's all about. Mrs. Farmer gives the taxpayer's name and address but doesn't know the taxpayer's social security number. A check of the comments section on STAR or MACS shows no authorization on file. You cannot give Mrs. Farmer confidential tax information, but you can give general information about penalties applying to that type of situation.

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You can ask a third party to describe the information of which they have knowledge and explain or discussed it, but additional information may not be discussed.

Example 3: A potential buyer of a business calls to discuss their potential liability. The caller mentions recorded tax liens and the amounts listed on those liens. Attachment of the tax liens can be discussed in general terms. The caller also asks for reported gross sales. This information cannot be disclosed, confirmed or denied.

In the absence of written authorization, a telephone conference call with the taxpayer and their representative is acceptable. The third party should be advised that the taxpayer must initiate the call. Depending on the circumstances, it may be desirable to send the requested return information by mail to the taxpayer's name and address of record.

An authorization for disclosure to allow a designee to receive returns or return information should be a separate written document pertaining solely to the authorized disclosure. For example, a statement contained in a loan application authorizing the loan company to obtain return information would not be sufficient.

An authorization for disclosure must contain the following items:

1. The taxpayer's identity including name, address or account number, or any combination thereof, that enables the Department to clearly identify the taxpayer.
2. The identity of the person to whom disclosure is to be made.
3. The type of return (or the specific portion of the return) or return information (including particular data) to be disclosed.
4. The taxable period covered by the return or return information.
5. The signature of the taxpayer and the date the authorization was signed.

The date authorization is received should be stamped or otherwise noted on the letter. Any disclosure of information must occur during the period of disclosure specified on the POA or written authorization.

The taxpayer may always authorize disclosure of his or her return but may not compel disclosure of return information. If it is determined that disclosure of return information will seriously impair State tax administration, the Department may withhold disclosure. Refer to Disclosure Officer.

It is not necessary to order returns to verify the taxpayer's signature. If there is a serious doubt concerning the signature on an authorization, additional identification should be sought or an offer should be made to send the information by mail to the taxpayer's name and address of record.

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Michigan Relay Center

The written authorization requirement is waived in cases of a deaf, hearing impaired or speech impaired taxpayer communicating through a Michigan Relay Center (MRC) operator. The MRC is not considered a third party. See Policy ET-03120 (pages 5/88 and 5/88.1 in the Employee Handbook).

Receipt of Information From Third Parties

Even though a third party does not have written authority to request and receive tax information of the taxpayer, employees may still accept information offered by third parties. For example, cancelled check information may be accepted to initiate a payment tracer on a bill, but no information relative to the balance due or nature of the assessment may be given to the third party.

Legislators or Ombudsmen

Members of the U.S. Congress or state legislature in their official capacity are entitled to no greater access to returns or return information than any other person inquiring about the tax affairs of a third party. Returns and return information are protected from disclosure unless a written authorization is obtained from the taxpayer.

In most instances when taxpayers correspond with a member of Congress or state legislature about some action the Department has or hasn't taken with respect to their tax matters, they do not provide a formal power of attorney authorizing the legislator to obtain information. In such situations, the taxpayer's letter will authorize the disclosure to the extent it is signed, dated, and indicates the following:

1. The taxpayer's identity including name, address, account number, or combination thereof, that enables the Department to clearly identify the taxpayer.
2. The identity of the person to whom disclosure is to be made:
 - A. Letters addressed to "Dear Sir/Madam" which do not specifically refer to the legislator would not be sufficient. However, if the legislator attaches the envelope showing that the letter was addressed to him or her, that is sufficient.
 - B. If a taxpayer addresses a letter to one legislator and sends a copy to another legislator, disclosures can be made to the second legislator as long as the taxpayer's letter indicates that the copy was sent, or the second member forwards the envelope showing the copy was addressed to him or her.
3. Sufficient facts to enable the Department to determine the nature and extent of information or assistance requested, and the returns or return information to be disclosed.

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The Department must limit its response to the situation presented by the taxpayer and only disclose the returns or return information necessary to comply with the taxpayer's correspondence. Where a taxpayer authorizes disclosure for "all years" or "all returns" or similar phrase, such an authorization will be acceptable. However, the legislative inquiry must present sufficient facts so the Department can comply with a specific tax matter. The taxpayer, by his or her own choice, has specified that all information is available to the legislator, and so the Department may respond to the tax matter.

An authorization to a legislator will be construed to include a member of his/her staff designated in the legislator's inquiry, identified in general designation from the legislator, or known to be the legislator's staff person for dealing with constituents' tax inquiries.

Legislative Inquiry Without Taxpayer's Correspondence

If a legislator does not enclose a copy of the taxpayer's correspondence or other written authorization from his or her constituent, it will be necessary to communicate directly with the taxpayer, making reference to the request by the legislator. The legislator should be provided general information to the extent possible. An alternative approach would be to ask the legislator for a copy of the taxpayer's correspondence or other written authorization.

Legislative Telephone Inquiry

If a legislator or member of his or her staff telephones on behalf of a taxpayer, the Department may provide only general information, such as the meaning of the bill, notice or letter. The caller should be advised that the Department cannot disclose confidential information without a copy of the taxpayer's correspondence or other written authorization. As an alternative, the Department can offer to contact the taxpayer directly to resolve the problem.

A legislator may request the Department to telephone a staff member and give information needed to respond to a constituent. In such cases the Department may provide the information as long as the inquiry is in writing and includes the taxpayer's authorization. The oral disclosure must be limited to the return information that will be provided to the legislator in the Department's written response.

Legislative Inquiry Involving Court Case

If a legislator inquires about a pending court action involving a constituent, the inquiry should be referred to the appropriate Office of the Attorney General.

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Treasury Employees

Confidential tax information may be disclosed to other Treasury employees who have a "need to know" the information in connection with their official duties. If you are in doubt about a person's official "need to know," do not release any confidential tax information to that person without consulting your supervisor.

Be conscious of your surroundings when speaking to a State employee about tax information. Talk about a taxpayer's account in a crowded elevator, reception area, or a public cafeteria, may be overheard. This would result in an unauthorized disclosure.

Other State Agencies

Tax information will not be disclosed to other State of Michigan agencies unless the agency has entered into an agreement with the Revenue Commissioner for specifically stated administrative purposes.

If an employee of another agency asks for copies of a taxpayer's return or administrative information, it is possible that the information may be legally furnished if the person submits the request in writing addressed to the Disclosure Officer. The request must contain taxpayer identification, reason for the request, reference to Section 28(1)(f) of the Revenue Act, MCL 205.28(1)(f), and must be signed by the director of the agency.

Internal Revenue Service

Information will be disclosed to only those Internal Revenue Service (IRS) agents or representatives whose names appear on the Exchange Agreement List. Whenever any other person representing him- or herself as an agent/employee of the IRS makes a request for information regarding our tax files, he or she must be advised to contact the IRS Disclosure Officer.

Requests for information from the IRS may be made only by those persons designated by the Revenue Commissioner. When necessary to request copies of a taxpayer's federal return from the IRS, form F-8796 REQUEST FOR RETURN INFORMATION must be completed and signed by a person properly designated, and countersigned by either the Revenue Commissioner, Deputy Revenue Commissioner or the Disclosure Officer. Send all requests to Disclosure Officer.

When quick action is necessary, a properly designated person may call the IRS Disclosure Officer, properly identify him- or herself, and request a return. However, a verbal request must be followed by a written request, as described above.

Remember that returns and return information obtained under exchange agreements with the IRS may not be disclosed to any unauthorized party, including other state or local agencies.

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Representatives of Other States

Information may be disclosed to representatives of other states with whom Michigan has a reciprocal agreement to exchange tax return/tax information.

Each reciprocal state provides the Revenue Commissioner with a list of representatives authorized to request or disclose tax return/tax administration information. Only those listed individuals will be given information from our files. Refer requests to Disclosure Officer.

News Media Inquiries

Refer all requests from news media to the Special Assistant to the State Treasurer unless another employee has been designated by the Revenue Commissioner to handle media inquiries regarding a specific account.

Freedom of Information Act (FOIA)

Members of the public may inspect or obtain copies of non-exempt records pursuant to the Freedom of Information Act (Act 442 of the Public Acts of 1976, as amended; MCL 15.231-15.246). Policy ET-03015 and Procedure PT-03029 outline the handling of FOIA requests.

Certifications

Any member of the public may request certification of a document. Requests for certification should be sent to the Disclosure Officer.

Accounts in Bankruptcy

Tax debts may be discussed with the attorney identified in the bankruptcy petition as counsel for a taxpayer. It is not necessary to obtain a POA from the taxpayer in this instance. However, such discussions with the attorney should be terminated immediately if the attorney advises that he or she no longer represents the taxpayer. Their status as counsel for the taxpayer should be ascertained if a lapse in time since the filing of the bankruptcy petition or since previous contact has taken place.

Chapter 11 debtors-in-possession may be contacted directly about any tax debts. Contact should be confined to the taxpayer's counsel for any pre-petition debts in Chapter 7 proceedings. Taxpayers in Chapter 13 should not be contacted (regardless of whether their plan of arrangement has been confirmed) as there is a judicial stay against enforcement action. All contact should be made through the taxpayer's counsel. In the case of failure to pay current taxes by taxpayers in Chapter 13 proceedings, it will be necessary to petition the bankruptcy court to convert the cases to Chapter 7 liquidation proceedings.

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Estate administrators (Chapter 11) and trustees (Chapter 13) may be informed of a taxpayer's non-compliance with bankruptcy court orders requiring timely payment of current tax debts. Such disclosure may be made without the consent of the taxpayer. Estate administrators and trustees may be provided with copies of letters to taxpayers regarding tax debts within the jurisdiction of the bankruptcy court. Tax debts arising after confirmation of a Chapter 11 plan of arrangement are outside of bankruptcy court supervision.

INVESTIGATIVE DISCLOSURES**Collection Division**

"Return information" may be disclosed only to the extent necessary to gather information to obtain assistance in conducting a tax investigation.

Situations in which disclosures may need to be made to perform the duties of your job arise daily. Examples include:

1. Talking with third parties believed to have information pertinent to the investigation
2. Determining responsibility for filing a return
3. Trying to locate the taxpayer or his or her assets
4. Verifying Collection Information Statements

Disclosure to a person other than the taxpayer or a legal representative should be made only if the necessary information cannot otherwise be reasonably obtained.

The extent to which these disclosures may be made is left to employee judgment, but always consult your supervisor if there are any doubts. As a general rule, if the taxpayer is aware of the investigation and is cooperative, obtain the necessary information directly from the taxpayer or the taxpayer's representative, unless doing so might hinder the investigation. If it is not possible to obtain the necessary information directly from the taxpayer, disclosures may be made to third parties to obtain information or assistance to complete the investigation. Be cautious in the type and amount of information disclosed.

Example: A Collection Division employee contacts an employer or financial institution. It may be necessary to disclose the taxpayer's account number in order for the third party to locate the needed records.

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OTHER DISCLOSURE PROVISIONS

The Department of Treasury tries to keep the public informed about its operations and furnishes requested information to the extent that disclosure is not prohibited by statute and official policy. If questions arise as to what information is available to the public, consult your supervisor. The topics below summarize some of the other disclosure provisions. Again, consult your supervisor if questions on these or other topics arise regarding disclosure.

Internal Documentation and Training Materials Development

Examples of returns and return information extracted from actual returns must first have actual taxpayer identification information removed before they are made a part of internal documentation or training materials. Fictional examples of similar situations may be created. These examples may contain neither the identity of the taxpayer nor any information which could be considered attributable to a particular taxpayer (name, business name, address, etc.).

The following guides should be observed in developing examples:

1. Names and addresses which should not be used include:
 - A. Any name or address which may easily be mistaken for or associated with a real person or place.
 - B. Any name or address which may be associated with any prominent person, living or dead, from the political, scientific, entertainment, sports or other fields.
 - C. Any name or address which may have an ethnic or racial identification. However, a name having an ethnic or racial identification may be used if necessary to illustrate an instruction which depends upon the use of that name, such as how to construct a Name Control, how to file records, or how to transliterate from a foreign alphabet.
 - D. Any name or address which may be seen as casting reflections on the character or behavior of any person or of taxpayers in general, or which may be seen as whimsical or provocative.
 - E. Any name which may be associated with a joke, anecdote, or anagram, or could detract from the efficient and businesslike presentation of the information involved.
2. Names may be selected from a class of objects such as colors, animals, plants, the phonetic alphabet or common neutral names such as Brown, Doe, Jones, Smith, provided good judgment is used to avoid objects or combinations of objects which might suggest results contrary to the intent of this instruction.

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3. Business or corporate names should be similarly selected or constructed and should avoid any possibility of suggesting to the reader any actual business organization.
4. City names should similarly be neutral such as "Anytown," or use the name of a major city having no unfavorable connotations in relation to the materials with which they are being associated. The use of obscure or unusual place names is to be avoided.

If use of fictional examples is not consistent with the purpose for which the information is to be disseminated, examples may be available in court cases which are public records. When using such examples, care must be exercised to include only such information as actually appeared in the public record.

If neither fictional examples nor examples from public records are appropriate, consideration should be given to the use of composite examples, in which components are drawn from three or more cases, rendering the result as statistical data precluding identification of any taxpayer.

Public Availability of Internal Documentation

Information or documentation disclosing dollar tolerance levels for various activities must not be provided to other State employees not directly involved in field audit activities, return review activities, or collection activities. Requests from other State employees should be directed to your supervisor.

Release of policy, procedural or other documents can only be made by the Disclosure Officer.

Disclosure of STAR or MACS Records

Taxpayers may not be sent a copy of the accounting detail from the STAR or MACS system. These records contain case history, suspension status, comments or other sensitive collection case information which will not be disclosed. Original letters will have to be prepared, or requested on-line, outlining the payment and adjustment history by assessment.

Disclosure of Lien Information

The amount due shown on a recorded tax lien may change due to updated penalty and interest, corrections to the tax due, and payments. The current amount due often varies significantly from tax lien amount. Absent written taxpayer authorization, third parties cannot be advised of the current balance due. Third parties who wish to know whether liens have been filed must be referred to the county Register of Deeds office and/or Secretary of State, Uniform Commercial Code Section, as appropriate. However, the taxpayer can be verbally provided with the current amount due on the assessments included on liens, and subsequently verify this amount for the third person. Alternatively, a letter stating the balance due can be sent by mail to the taxpayer's name and address of record, and the taxpayer can give the letter to the third person if they so chose.

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Court-Ordered Disclosures

Disclosure of tax returns and tax return information to someone other than the taxpayer is statutorily restricted to protect taxpayer confidentiality. Treasury's Disclosure Officer makes the initial determination regarding disclosure.

Further, tax returns or tax return information may be open to inspection by or disclosure to a third party pursuant to a judicial order issued by a court, consistent with the requirements of 1941 P.A. 122, section MCL 205.28(1)(f); MSA 7.657(28)(1)(f), as follows:

1. An agency charged with the duty of enforcing or investigating support obligations pursuant to an order of the court in a domestic relations matter as described in MCL 552.531; MSA 25.176(31); or
2. An agency of the federal, state, or local government charged with the responsibility of administering or enforcing criminal law for purposes of investigating or prosecuting criminal matters; or
3. Pursuant to a judicial order, if the taxpayer's liability for a tax administered under the Revenue Act is to be adjudicated by the court that issues that order; or
4. Pursuant to a judicial order or subpoena issued by a federal grand jury or a grand jury convened under laws of the State of Michigan. A subpoena signed by a magistrate is preferable but not mandatory.

All subpoenas requiring an employee's appearance in court should be referred to the Disclosure Officer.

Subpoenas for tax returns or tax return information are to be directed to the Disclosure Officer.

Auditor General Requests

Returns, return information and tax administration information may be disclosed as detailed below to employees of the Auditor General for purpose of making an audit of the Department of Treasury. In audits of other state agencies or departments, employees of the Auditor General may request returns or return information by making a written request to the Disclosure Officer.

The Auditor General also conducts reviews of nontax activities of the Department such as procurement, payroll, budget and fiscal operations. Since these reviews do not entail a review of the Bureau of Revenue's tax activities in connection with the administration of the State tax laws, the Auditor General will not normally require disclosure of returns and return information. The Auditor General may, however, as part of these nontax reviews, have access to nontax information.

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No disclosure of tax, nontax or administrative information will be made unless it is verified that the request is part of an authorized review of the Department. Information will not be disclosed to the Auditor General during an audit of the Bureau of Revenue if the Revenue Commissioner or his/her delegate determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

Grand jury information may not be disclosed to the Auditor General. Questions concerning grand jury information should be referred to the Deputy Revenue Commissioner for Compliance.

Problems regarding the scope of a review are to be resolved by the Director of the Office of Internal Audit.

Any information that is available to the Auditor General during a nontax review, or is available to the general public, is available to the Auditor General during a tax review.

Tax reviews by the Auditor General may include reviews of tax returns and return information. Auditor General requests for returns and return information are to be made in writing. Copies of such records can be provided to the Auditor General only if all identifying information is deleted. Reviews of returns and return information may be performed on the premises of the related division or at the Auditor General's work site. Returns and return information are not to be removed from the division's premises.

Reporting Nontax Crimes

It is possible that you will obtain information indicating a nontax criminal violation such as robbery, murder, assault, fraud, narcotics violations, bribery of public officials, etc. Consult with your supervisor to determine whether the information should be reported either to local authorities or to the Disclosure Officer.

Forwarding Letters for Humane Reasons

Letters for humane reasons should be forwarded to the Disclosure Officer. The addresses of taxpayers are return information. In cases where there are humane reasons involved, the Department may forward a letter for a requester. The Department cannot, however, provide the requester with information concerning the results of its efforts.

Examples of humane purposes are:

1. A person seeking to find a missing person to convey a message of urgent or compelling nature, such as serious illness, imminent death or death of a close relative or a person seeking a missing relative.
2. Health and well being of a number of persons involved such as person being sought for medical study to detect and treat medical defects.

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3. A person seeking to notify an individual who cannot otherwise be located that he or she is entitled to certain assets. The Department will forward a letter from an attorney or estate administrator or other person who directly controls the assets. If there is a question of who actually controls the assets, the Department will require the requester to furnish proper documentation of his or her control. For example, an attorney who is designated by a court to represent a class of individuals entitled to awards under a court settlement must provide a copy of the court order appointing him or her as counsel for the class. No documentation is necessary when the letter to be forwarded contains instructions to the intended recipient to contact the controller of the assets directly.

The situation where a family member is attempting to trace his or her family tree does not qualify as a humane purpose. Also, it is Department policy not to forward letters which serve to seek reparation for obligation due the requester.

Information Which Has Become Public Notice

Confidential information which has become public as a result of actions (judicial or otherwise) taken by, or on behalf of, the Department are not to be disclosed since the information was obtained through tax administration. Interested third persons may only be referred to related public records. It is the responsibility of the third person to gather the desired information from public record.

Information made public by a taxpayer or third party, which is identical to returns or return information in the possession of the Department does not affect the confidentiality of such information. Thus, the Department cannot use return information to confirm information made public by any other party.

Protecting Identities of Treasury Employees

Names, signatures, initials or other identifying details (but not title or office) of Treasury employees may be deleted from documents released when considered necessary in order to avoid unwarranted invasion of privacy, threat of harassment, or abuse of employees and their families.

Employees' residence address and home telephone number will not be disclosed for security reasons.

Identities of senior officials, such as the Revenue Commissioner, Deputy Revenue Commissioner and Division Administrators should not be deleted. Identities which should be known to the requester, such as enforcement officers required to identify themselves to the subject of an investigation, should not be deleted.

These instructions do not apply to innocuous lists of employees, such as telephone directories.

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Disclosures to Contractors

Where it is necessary that state contractors be given access to returns, return information or tax administration information, the Administrator of the related division must obtain prior approval. All contractor employees or subcontractor employees must first sign a confidentiality agreement. Any improper disclosure by these persons may result in cancellation of the contract.

UNAUTHORIZED DISCLOSURES AND SUMMARY

If any employee knowingly, or by reason of negligence, discloses any return or return information not authorized by the Revenue Act, the taxpayer whose information was released may sue the State of Michigan for damages. For example, if you discuss the details of a tax case with your spouse or a friend, you are making an unauthorized disclosure for which the taxpayer may sue the State and/or employee. The State may take disciplinary action against any employee who makes an unauthorized disclosure. Any employee found criminally liable faces a maximum penalty of five years in prison, a \$5,000.00 fine and automatic dismissal from employment.

Returns and return information are confidential and may not be disclosed unless authorized by the Revenue Act. As a Department of Treasury employee, pertinent questions may be asked which will enable the closing of an investigation. With this in mind, be careful not to volunteer any information in return for the information received.

End